

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sasha Pavlova	Team: Squad #6	CCRB Case #: 202104584	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/18/2021 3:00 PM	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 1/18/2023	EO SOL 1/18/2023	
Date/Time CV Reported Sat, 07/24/2021 5:29 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 08/04/2021 10:44 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Israel Alcantara	19894	952390	PSA 6
2. PO Bianery Garcia	04878	965123	PSA 6

Officer(s)	Allegation	Investigator Recommendation
A.PO Israel Alcantara	Abuse: Police Officer Israel Alcantara threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.PO Bianery Garcia	Abuse: Police Officer Bianery Garcia threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)
C.PO Israel Alcantara	Abuse: Police Officer Israel Alcantara threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(b)

Case Summary

On July 24, 2021, § 87(2)(b) submitted this complaint with IAB under log #2021-1644. On August 4, 2021, the complaint was received at the CCRB.

On July 18, 2021, at approximately 1:00 p.m., PO Israel Alcantara and PO Bianery Garcia of PSA 6 responded to a dispute involving § 87(2)(b) and his neighbor at § 87(2)(b) in Manhattan. Later that day, around 3:00 p.m., § 87(2)(b) saw PO Alcantara and PO Garcia in a police vehicle parked near his building. § 87(2)(b) began speaking to them, but PO Garcia rolled up her window. § 87(2)(b) then knocked on the vehicle window. The officers drove away but then reversed and approached § 87(2)(b). PO Alcantara asked § 87(2)(b) if he touched the police vehicle and allegedly said he should have arrested § 87(2)(b) (**Allegation A: Abuse of Authority:** § 87(2)(g) § 87(2)(b) said the officers could not arrest him for touching the vehicle. PO Garcia and PO Alcantara then asked § 87(2)(b) if he wanted to go to the hospital (**Allegations B and C: Abuse of Authority:** § 87(2)(g) § 87(2)(b) did not respond, and the officers left the location.

No arrests were made, and no summonses were issued. BWC footage was obtained for this incident (BR 01-04).

Findings and Recommendations

Allegation (A) Abuse of Authority: PO Israel Alcantara threatened to arrest § 87(2)(b) § 87(2)(b) testified (BR 05) that following a dispute with a neighbor, either § 87(2)(b) or his neighbor called 911. PO Alcantara and PO Garcia responded, and after speaking with § 87(2)(b) they left. Approximately two hours later, § 87(2)(b) observed the two officers parked near his building. § 87(2)(b) approached their vehicle and began talking to them. PO Garcia said that they had to respond to a call and rolled up her window. § 87(2)(b) either tapped with his fingers or knocked with his knuckles but did not bang on the window. The officers drove away, but then reversed and stopped in front of § 87(2)(b). Both officers exited the vehicle and approached § 87(2)(b). PO Alcantara asked § 87(2)(b) if he touched the vehicle and said he should arrest § 87(2)(b). § 87(2)(b) responded that officers could not arrest him for touching the vehicle.

§ 87(2)(b)'s neighbors were on scene. § 87(2)(b) stated that he did not have their contact information but would ask them to call the CCRB. No civilians reached out to the CCRB regarding this incident. No other civilians were interviewed because no other witnesses were identified.

PO Alcantara's BWC (BR 03) showed that PO Alcantara was in the driver's seat and PO Garcia in the front passenger's seat of the police vehicle. § 87(2)(b) stood outside PO Garcia's side window with his cell phone and appeared to talk to the officers. The BWC did not capture § 87(2)(b) knocking on the vehicle. The video had no sound until later. At 00:10 seconds of the video, PO Alcantara drove away, then made a U-turn, and stopped the vehicle. At 00:50 seconds of the video, PO Alcantara exited, approached § 87(2)(b) and began speaking to him. At 1:00 minutes, the sound began. PO Alcantara yelled at § 87(2)(b) asking what his problem was and why he touched the police vehicle. § 87(2)(b) asked PO Alcantara why he was raising his voice and told him to calm down. PO Garcia waved her hand, as if to calm PO Alcantara down. At no time in the BWC did PO Alcantara threaten to arrest § 87(2)(b).

PO Alcantara testified (BR 06) that him and PO Garcia responded to a dispute between § 87(2)(b) and his neighbor. They told the neighbor to reach out to NYCHA and left. When the officers began driving away in their vehicle, PO Alcantara heard banging. He turned around and saw that § 87(2)(b) chased the vehicle and banged on their window with his fist. PO Alcantara then made a U-turn and stopped in front of § 87(2)(b). PO Alcantara and PO Garcia exited the vehicle. § 87(2)(b) was speaking in a loud voice. PO Alcantara asked why § 87(2)(b) banged on the vehicle. PO did not

remember what § 87(2)(b) said. PO Alcantara never told § 87(2)(b) that he would arrest him.

PO Garcia testified (BR 07) that when the officers got inside their vehicle, § 87(2)(b) approached the vehicle and banged on their window. PO Garcia did not know why he did that. Both officers exited the vehicle and approached § 87(2)(b) who was yelling. PO Garcia's attention was focused on § 87(2)(b) and she did not pay attention to PO Alcantara. PO Garcia did not recall if PO Alcantara told § 87(2)(b) that he should be arrested.

§ 87(2)(b) and both officers testified that he did, though this was not captured on BWC. § 87(2)(b) testified that PO Alcantara then threatened to arrest him, which PO Alcantara denied. PO Garcia testified that she did not recall whether PO Alcantara threatened to arrest § 87(2)(b). The BWC did not capture PO Alcantara threatening § 87(2)(b) with arrest. However, PO Alcantara exited the vehicle before the BWC audio began.

§ 87(2)(g)

Allegation (B) Abuse of Authority: PO Bianery Garcia threatened to remove § 87(2)(b) to the hospital.

Allegation (C) Abuse of Authority: PO Israel Alcantara threatened to remove § 87(2)(b) to the hospital.

§ 87(2)(b) testified (BR 05) that after he told the officers they could not arrest him for touching the vehicle, PO Garcia said they could take § 87(2)(b) to the hospital. § 87(2)(b) did not respond, and the officers left the location.

PO Garcia's BWC (BR 04) showed that after PO Alcantara got out of the vehicle and yelled at § 87(2)(b), § 87(2)(b) began talking about the neighbor dispute. § 87(2)(b) and the officers argued about the dispute. PO Garcia then said they were done. § 87(2)(b) told the officers that he was done and told them to leave. At 1:55 minutes into the video, PO Garcia asked § 87(2)(b) if he wanted to go to the hospital. § 87(2)(b) repeatedly said he was fine and asked why he would go to the hospital. PO Garcia and PO Alcantara repeatedly told § 87(2)(b) that he was not fine and asked what hospital he wanted to go to. § 87(2)(b) then left. As § 87(2)(b) was leaving, PO Alcantara yelled that he was recording. When PO Alcantara got into the vehicle, he yelled "stupid", and the video stopped. The discourtesy allegation was not pleaded in this case because § 87(2)(b) was not in the earshot, and the police vehicle doors and windows were closed.

PO Garcia testified (BR 07) that when the officers exited the vehicle and approached § 87(2)(b) she asked § 87(2)(b) if he wanted to go to the hospital. PO Garcia wanted to make sure § 87(2)(b) was well. There were no other reasons why PO Garcia asked § 87(2)(b) if he wanted to go to the hospital. PO Garcia did not think that § 87(2)(b) was a threat to her safety. PO Garcia had had interactions with § 87(2)(b) in the past when he had to go to the hospital twice and hallucinated due to narcotics use. PO Garcia was not aware of any other instances when § 87(2)(b) had to be removed to the hospital. § 87(2)(b) walked away, and the officers left.

PO Alcantara (BR 06) testified that both officers asked § 87(2)(b) if he wanted to go to the hospital. PO Alcantara had previously responded to an incident, in which § 87(2)(b) hallucinated and was removed to the hospital. During the current incident, PO Alcantara did not know if § 87(2)(b) was a threat to his own safety. PO Alcantara did not think § 87(2)(b) was a threat to PO Alcantara's safety. § 87(2)(b) did not exhibit any hallucinatory behaviors during this interaction. § 87(2)(b)'s history of being taken to the hospital was the only reason why PO Alcantara asked if he wanted to go to the hospital. § 87(2)(b) refused, and the officers left.

Squad Leader:	<u>Jessica Peña</u> Signature	<u>IM Jessica Peña</u> Print Title & Name	<u>3/11/2022</u> Date
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Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
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